Remarks

Reconsideration and allowance of the above referenced application are respectfully requested.

Initially, the examiner is thanked for the brief telephone call which was conducted on August 31, 2005. During that call, the only thing discussed was claim 42, and more specifically, the examiner's comment on page 6 that somehow claim 42 did not define correlating two spectral ranges to determine salient portions. The claim is amended to emphasize this. Therefore, the statement on page 6 of the office action is respectfully traversed. Claim 42 does specifically define correlating those ranges.

Claims 1-7 stand rejected under 35 USC 103a as allegedly being unpatentable over Rao in view of Tikinis. It is believed that part of the confusion is caused by the word "salient". The word "salient" is used in a different sense in Rao relative to the way it is used in the present claims.

Rao relates to machine vision. When Rao refers to "salient", it refers to whether the item is salient <u>to the computer algorithm</u> that is doing the machine vision. As described in the previous amendment, Rao uses the system for recognizing objects within an overall image. Rao reduces those images to a skeleton and analyzes the skeleton to try and determine what object the skeleton represents. For example, a

14

determination may be made as to whether the skeleton represents a car or a bird or some other object. As part of that determination, the algorithm determines which parts of that skeleton are salient to determining what the skeleton represents. Some lines may be salient to that algorithm, other lines might not.

Consider the example of a hex code. Some digits in that hex code may be extremely salient to a computer, especially if the computer is looking for a pattern like 0E0E. However, this is not salient to the human gaze. This is an entirely different kind of salience.

Kikinis describes a system of selling a product. As part of selling the product, the user's attention is drawn to a certain portion. In one embodiment of Kikinis, this is done by putting a red box around that portion. Another words, Kikinis teaches adding and using features which attract the gaze of the human eye --adding them, not DETECTING THEM as claimed.

Therefore, the hypothetical combination of Rao in view of Kikinis might teach a machine vision system which determines salient features as taught by Rao, but salient from the point of view of salience to determine what kind of object those features represent. This may be combined with the teaching from Kikinis of adding parts which are salient to the image. However, nowhere is there any teaching or suggestion of determining which

15

parts of the image are likely to be perceived by a human observer.

Claim 1 has been amended to emphasize these differences. Claim 1 now specifies using a computer to analyze an image to determine parts of the image which are likely to be perceived by a human viewer as salient to the human eye. This definition of salience is entirely different than anything taught by Rao. While admittedly Kikinis describes the same kind of salience, Kikinis teaches nothing about analyzing to determine that kind of salience. Claim 1 also defines using the computer to determine from the salient parts, an effectiveness of the image in attracting the attention of human observers. Nothing, in any of the prior art, no matter how combined, carries this out. Claim 1 now effectively defines a computerized predictor of human gaze. Rao is a machine vision system that tries to recognize actual objects in and image. It does that by determining parts of the image which are salient to the recognition. Kikinis teaches a system for adding extra salience to different parts of an image. It teaches nothing about a computerized predictor of human gaze.

Claim 1 as amended, therefore, further emphasizes the patentable distinctions. Claims 2-7 which depend from claim 1 should be allowable for reasons discussed above with respect to claim 1 as well as on its own merits.

16

Attorney's Docket No.:06618-790001

Claims 42-47 and 54 stand rejected as allegedly being anticipated by Rao. This contention remains respectfully traversed. As described in the previous amendment, claim 42 defines analyzing and image to determine salient parts of the image... "in at least two different spectral ranges". Claim 42 further defines "correlating said information about the image in said at least two different spectral ranges to determine salient portions of the image from said correlating".

Rao teaches obtaining different images in different spectral ranges. Rao does not, however, teach correlating those two different images from the two spectral ranges. In fact, Rao can be fairly said to teach away from this, since it teaches that the operation is "fairly independent" of the spectral range, see column 6 line 42.

Rao teaches that the infrared and visible light images are completely independent of each other. That is, the different spectral ranges can be used for different applications. Nowhere is there any teaching or suggestion of correlating those to spectral ranges to determine salient portions.

The dependent claims not described above should each be allowable for reasons on their own merits. Specifically, claims three and 45 define higher order statistical variations which are not taught or suggested by the cited prior art.

17

BEST AVAILABLE COPY

It is believed that all of the pending claims have been
addressed in this paper. However, failure to address a specific
rejection, issue or comment, does not signify agreement with or
concession of that rejection, issue or comment. In addition,
because the arguments made above are not intended to be
exhaustive, there may be reasons for patentability of any or all
pending claims (or other claims) that have not been expressed.
Finally, nothing in this paper should be construed as an intent
to concede any issue with regard to any claim, except as
specifically stated in this paper, and the amendment of any
claim does not necessarily signify concession of unpatentability
of the claim prior to its amendment.

18.

Attorney's Docket No.:06618-790001

Applicant asks that all claims be allowed. Applicant
believes no fee is due, however, please apply any other charges
or credits to Deposit Account No. 06-10

Respectfully submitted,

Date: 10/11/05

Scott Harris
Reg. No. 32,030

Fish & Richardson P.C.
12390 El Camino Real
San Diego, California 92130
(858) 678-5070 telephone
(858) 678-5099 facsimile

10548714.doc

19